

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNION PACIFIC RAILROAD COMPANY,)	
)	
Plaintiff,)	8:08CV336
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY, et al.,)	
)	
Defendants,)	
)	
_____)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:10CV430
)	
v.)	
)	
UNION PACIFIC RAILROAD COMPANY,)	
)	
Defendant,)	ORDER
)	

This matter is before the court on the parties joint stipulation of partial dismissal, Filing No. 177 in 8:08CV336, Filing No. 70 in 8:10CV430. Pursuant to that stipulation, IT IS ORDERED, ADJUDGED AND DECREED:

1. Union Pacific's Administrative Procedure Act, Declaratory Judgment Act, and Constitutional Claims concerning the seizure of the railcars identified in the pleadings are dismissed with prejudice, reserving to Union Pacific the right to challenge future applications of the Tariff Act of 1930 on identical grounds in the event of future seizures. This dismissal applies only to the railcars identified in the pleadings. Reserved for decision by the Court are all other issues as set forth by the pleadings and

motions currently pending before the Court, including Union Pacific's claims under the Administrative Procedure Act, Declaratory Judgment Act, and Constitutional Claims challenging the Government's application of 19 U.S.C. §1584.

2. Counterclaim II asserted by the Government is dismissed with prejudice, with the understanding that by so dismissing, the Government does not concede that the District of Nebraska possesses jurisdiction over the seizures of the railcars at issue. In addition, the Government reserves the right to enforce future applications of the Tariff Act of 1930 against Union Pacific on identical grounds in the event of future seizures.

DATED this 9th day of June, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
CHIEF DISTRICT JUDGE